

**DM 03-176**

**INVESTIGATION OF UTILITY BILLING PRACTICES**

**Third Party Vendors of Bill Payment Services**

**Order Addressing Final Report**

**ORDER NO. 24,431**

**February 11, 2005**

**I. BACKGROUND**

On July 16, 2004, the New Hampshire Public Utilities Commission (Commission) issued Order No. 24,353 in Docket No. DM 03-176 approving a study period for the collection of data regarding the use of various payment options by customers. In approving the study period, the Commission noted, however, that certain events had occurred since the proceeding was opened which served to heighten its concern about how utilities in New Hampshire receive payments from customers.

Referencing the April 2004 bankruptcy filing by CashPoint Network Services, Inc. (CashPoint), the Commission expressed concern that waiting until the study period was concluded left customers at risk should situations similar to the CashPoint bankruptcy arise during the pendency of the study. Accordingly, the Commission directed Staff and the parties to reconvene to discuss the legal and practical issues posed by third party vendors. A final report of those discussions was to be provided to the Commission by October 29, 2004. At the request of Staff and the parties, the Commission extended the date by which the report was to be filed. A technical session was held on November 4, 2004, which resulted in the filing of a report on December 17, 2004 (the Report).

## **II. REPORT OF STAFF AND THE PARTIES**

The Report filed by Staff states that, in those instances where a third-party payment vendor has a contractual relationship with the utility, the Commission's rules seem to adequately provide protection for customers. The Report further states the parties and Staff agree that when the utility has a contractual relationship with a payment agent, the utility shall honor any payments made to such agent.

Accordingly, the primary focus of the Report is what utilities should and could do to protect customers in situations where no contractual relationship exists between the utility and the third-party vendor or money transmitter. In the Report, Staff and the parties have outlined the path followed by payments made to a third party vendor or money transmitter. Because of the number of financial institutions that the payment passes through and the interrelationships between them, the utilities do not have the ability to separately identify payments received through various third party vendors with whom they have no contractual relationship. They also do not have the information needed to identify the money transmitter or third party vendor who initially accepted a customer's payment.

Absent the ability to either separately identify payments made through third party vendors or to identify who the third party vendors are, the Report recommends utilities work to educate their customers relative to the potential risks associated with making payments to the utility through a third party vendor or money transmitter. The Report concludes that knowledgeable and informed customers will be better prepared to avoid a situation similar to the one resulting from the CashPoint bankruptcy. To achieve that goal, Staff and the parties

developed a model customer notice to be used by the utilities when communicating with their customers.

Additionally, the Report recommends the customer notice be provided to customers no less frequently than twice a year through a bill insert, bill message, customer newsletter or separate mailing and that each utility be permitted to select the most practical means of communication and to make stylistic changes to the model customer notice should it so choose. Further, the Report states Staff and the parties agree the notice may be sponsored by the utility at the option of the utility. Alternatively, the notice would be furnished by the utility on behalf of the Commission or the Commission in conjunction with the Office of Consumer Advocate (OCA). Finally, the Report notes that those utilities not affected by the CashPoint bankruptcy filing last year expressed concern that sending the model customer notice to their customers would create confusion on the part of some customers and result in unnecessary inquiries to utility staff.

### **III. COMMISSION ANALYSIS**

We agree with Staff and the parties that our rules adequately protect customers in those situations where the utility has a contractual relationship with the third party vendor or money transmitter and that, in those circumstances, a utility shall honor any payments made to the third party vendor or money transmitter. We also agree that customer education is an appropriate mechanism for ensuring that consumers are aware of the potential risks associated with making payments to someone other than an authorized agent of the utility. Of concern, however, is how customers will know that the third party vendor to whom they make a payment is authorized by the utility to accept payments on its behalf. The inclusion of a listing of the

utility's authorized agents or the inclusion of a toll free phone number or website where such a list can be obtained should help ensure that customers make informed choices when they pay their utility bills.

We have reviewed the draft customer notice contained in the Report and approve the use of the notice as drafted. While we understand the concern voiced by some utilities that mandating notice to all customers may create some confusion and result in unnecessary inquiries. However, the language of the customer notice appears to minimize the potential for any confusion and should make the customers aware of the potential risks of using third-party payment vendors. We concur with Staff that the benefit of providing such notice to customers exceeds any potential confusion that may be created.

It is clear from the report that not all utilities prefer to be the voice communicating with customers about payment options and the potential risk of using a payment agent not authorized by the utility. The alternative suggested is for the Commission to sponsor the customer notice, either itself or in conjunction with the OCA. We will accept the recommendation that it be at the utility's option. Should the utility choose not to be the sponsor of the customer notice, in order to avoid customer confusion between the Commission's Consumer Affairs Division and the Office of the Consumer Advocate we find that such a message should come from the Commission alone.

Staff and the parties have recommended notice "be provided to customers twice a year through a bill insert, bill message, customer newsletter or separate mailing" and that each utility would choose the most practical method of communication. Changes to the proposed language that are stylistic in nature would be permitted. In those instances where the utility has

chosen to sponsor the customer notice, we find it appropriate to allow the utility to make stylistic changes to the notice. However, when the Commission is the sponsor of the notice, we direct the utilities to use the model language approved by this order unless it has obtained the consent of the Commission to alter the language. Requests to alter the language shall be submitted to the Consumer Affairs Division, which will review and approve any such requests.

Regarding the frequency and method of delivering the notice, we accept the recommendations set forth in the Report that the notice be provided to customers at least twice a year using the communication format most practical for the utility. We would note, however, that the utilities should provide the Commission's Consumer Affairs Division with details relative to the timing of the notice and the delivery format chosen on a yearly basis. We also encourage utilities to provide the notice on a more frequent basis when appropriate. The first notice to customers should be provided within 60 days of this order.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the recommendations outlined in the Report and as modified above are approved.

By order of the Public Utilities Commission of New Hampshire this eleventh day  
of February, 2005.

---

Thomas B. Getz  
Chairman

---

Graham J. Morrison  
Commissioner

---

Michael D. Harrington  
Commissioner

Attested by:

---

Michelle A. Caraway  
Assistant Executive Director & Secretary